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91 JH

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/649,243 08/28/00 LUMPKIN

W AVID. 13-1

EXAMINER

025871
SWANSON & BRATSCHUN L.L.C.
1745 SHEA CENTER DRIVE
SUITE 330
HIGHLANDS RANCH CO 80129

PM82/1005

SCHWARTZ, C	
ART UNIT	PAPER NUMBER

3613
DATE MAILED:

8

10/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/649,243

Applicant(s)

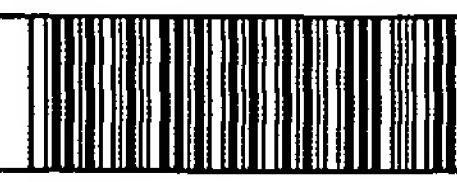
Lumpkin et al.

Examiner

Schwartz

Art Unit

3613



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) Notice of References Cited (PTO-892)
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s). 7

18) Interview Summary (PTO-413) Paper No(s). _____

19) Notice of Informal Patent Application (PTO-152)

20) Other: _____

CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER

Art Unit:

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement has been received and considered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9-12,15,18-20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 9,11,15,18 it is unclear what is meant by providing a means for providing a “tactile” indication of advancement...

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,3,9,17,18,20,21 rejected under 35 U.S.C. 102(b) as being anticipated by Gajek et al..

Art Unit:

Regarding claim 1 note Gajek et al. discloses disk brake having a caliper for a bicycle including a wear adjustment device 22 which is fixed against axial movement and which is part of a rotary to linear linkage as shown in the drawings.

Regarding claims 3,17,20 these requirements are met.

Regarding claims 9,18 subject to the 112 rejection above, and as broadly claimed these requirements are met.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Gajek et al. in view of Prince.

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Regarding claim 2 Gajek et al. lacks a showing of an indicator showing the amount of wear of the pads.

The reference to Prince is relied upon as only a general teaching to show this well known idea.

One having ordinary skill in the art at the time of the invention would have found it obvious to have provided such an indicator device on or in the area of the screw 2 of Gajek et al. as is well known in the art to provide an indication of wear.

Regarding claims 4-8 these limitations are considered to be obvious variations in view of the collective teachings of the references above.

Regarding claim 11 these requirements, as broadly claimed, are considered to be met.

Allowable Subject Matter

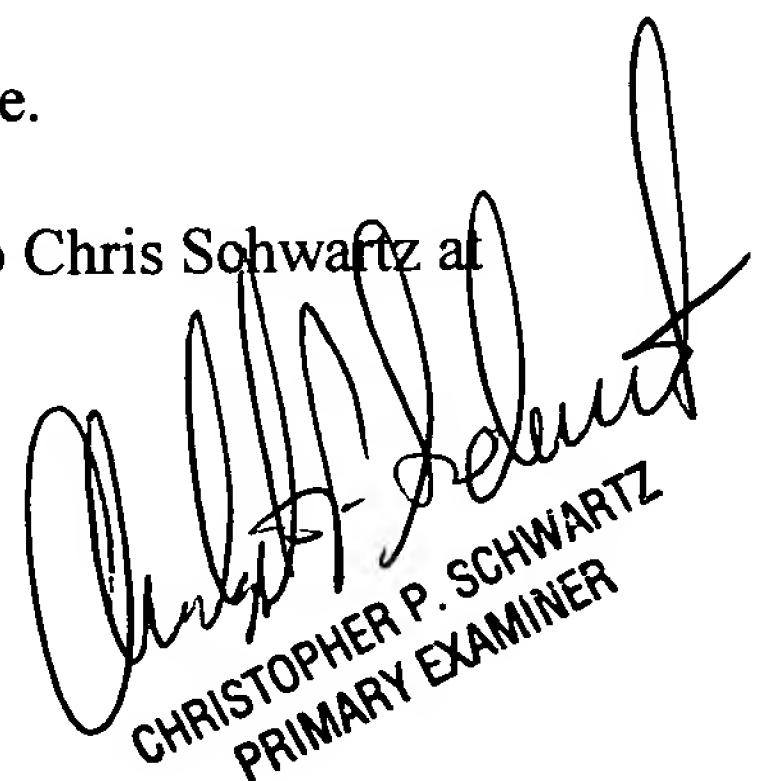
8. Claims 10,12,19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art of record has been cited for showing related structure.

10. Any inquiry concerning this communication should be directed to Chris Schwartz at telephone number (703) 308-0576.



CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER